

3.0 PROPOSED ACTION

As discussed in Section 1.0, NOAA Fisheries' purpose in this Opinion is to reconsider the methodology and conclusion in its 2000 Biological Opinion that the recommended reasonable and prudent alternative (RPA) was sufficient to satisfy the requirements of ESA § 7(a)(2). This reconsideration is responsive to an order of remand issued on June 2, 2003 by District Court Judge James A. Redden in the case *National Wildlife Federation v. NMFS*, CR 01-640-RE (D. Oregon, filed May 5, 2001).

To lay the groundwork for its new draft Opinion in response to the judicial remand, NOAA Fisheries revised its jeopardy analysis and updated its consideration of available science for listed salmon and steelhead. Based on this new information, the Action Agencies prepared an Updated Proposed Action (UPA) for NOAA Fisheries' consideration. To a large extent, the UPA continues the implementation of many of the actions contained in the 2000 Biological Opinion. It continues to focus on actions that will contribute toward meeting the performance standards described in the 2000 Biological Opinion but also includes specific actions designed to address the new jeopardy analysis, available science, and remand directions from the court.

Since the 2000 Biological Opinion was issued, the region has also gathered additional scientific information about the survival benefits available from certain types of actions. For example, NOAA Fisheries has identified factors that limit ESU survival in the tributaries and the estuary. The 2000 Biological Opinion and the associated Reasonable and Prudent Alternative (RPA) did not identify actions that were needed to avoid jeopardy for each of the ESUs to the level of detail now possible. NOAA Fisheries' updated analysis now includes ESU-specific survival needs. In consideration of these analyses, this UPA presents a customized approach to the life-stage needs of each ESU.

The UPA continues most of the uncompleted and ongoing actions in the 2000 Biological Opinion. It refines the actions of the RPA into a new set of Federal actions based on adaptive management principles. The similarities and differences between the UPA and the 2000 RPA can be found in the RPA Crosswalk posted at www.salmonrecovery.gov. As in the 2000 Biological Opinion, the UPA includes processes to assess and report progress and implementation planning.

The Action Agencies' proposed action is described in their November 24, 2004 "Updated Proposed Action for the FCRPS Biological Opinion Remand," which is incorporated by reference for the purpose of this Biological Opinion.

3.1 TERM OF THIS BIOLOGICAL OPINION

The term of this biological opinion covers the activities set forth in the Action Agencies' August 30, 2004 "Updated Proposed Action for the FCRPS Biological Opinion Remand." As such, this Opinion covers all of the Action Agencies' proposed discretionary operations of the FCRPS, associated projects, and coincident mitigation actions through 2014. The term is extended beyond 2010 in order to include one activity that is expected to be phased in through

2014 (the testing and planned construction of improved bypass systems, such as removable spillway weirs at Lower Monumental, Little Goose, McNary, and John Day dams).